

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

UNITED STATES OF AMERICA)
v.) Case No. 1:13-cr-4
LEMEL JEROME POWELL) COLLIER / LEE

O R D E R

Magistrate Judge Susan K. Lee filed a report and recommendation recommending the Court:

(1) grant Defendant's motion to withdraw his not guilty plea to Counts One and Two of the two-count Indictment and entered a plea of guilty to the lesser included offense of the charge in Count One, that is of possession with intent to distribute a mixture and substance containing a detectable amount of cocaine base, also known as "crack," a Schedule II Controlled Substance, in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C) and Count 2; (3) adjudicate Defendant guilty of the lesser included offense of the charge in Count One, that is of possession with intent to distribute a mixture and substance containing a detectable amount of cocaine base, also known as "crack," a Schedule II Controlled Substance, in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C) and Count 2; (4) defer a decision on whether to accept the plea agreement until sentencing; and (5) find Defendant shall remain in custody until sentencing in this matter (Court File No. 18). Neither party filed a timely objection to the report and recommendation. After reviewing the record, the Court agrees with the magistrate judge's report and recommendation. Accordingly, the Court **ACCEPTS** and **ADOPTS** the magistrate judge's report and recommendation (Court File No. 18) pursuant to 28 U.S.C. § 636(b)(1) and **ORDERS** as follows:

(1) Defendant's motion to withdraw his not guilty plea to Counts One and Two of the Indictment is **GRANTED**;

(2) Defendant's plea of guilty to the lesser included offense of the charge in Count One, that is of possession with intent to distribute a mixture and substance containing a detectable amount of cocaine base, also known as "crack," a Schedule II Controlled Substance, in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C) and Count 2 is **ACCEPTED**;

(3) Defendant is hereby **ADJUDGED** guilty of the lesser included offense of the charge in Count One, that is of possession with intent to distribute a mixture and substance containing a detectable amount of cocaine base, also known as "crack," a Schedule II Controlled Substance, in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C) and Count 2;

(4) A decision on whether to accept the plea agreement is **DEFERRED** until sentencing; and

(5) Defendant **SHALL REMAIN** in custody until sentencing in this matter which is scheduled to take place on **Thursday, August 22, 2013 at 9:00 a.m.** before the Honorable Curtis L. Collier.

SO ORDERED.

ENTER:

/s/

**CURTIS L. COLLIER
UNITED STATES DISTRICT JUDGE**